S.B. Civil Writ Petition NO.1233/2005

Ratana Ram

vs

Sukheo & Ors.

DATE OF ORDER : - 1.4.2005.

HON'BLE MR. PRAKASH TATIA,J.

Mr.S.G.Ojha, for the petitioner.

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Heard learned counsel for the petitioner.

The trial court vide impugned order dated 15th May, 2004 dismissed the application of the petitioner filed under Order 9 Rule 7 CPC for setting aside ex-part order against him. According to learned counsel for the petitioner, no service was effected upon the petitioner before passing order to proceed ex-parte. It is also submitted that the summon of the petitioner was said to be served upon the plaintiff's wife and, therefore that service is absolutely illegal.

I considered the submissions of learned counsel for the petitioner. The above fact was fully considered by the trial court and the trial court recorded the finding that the application has been filed deliberately to delay the proceedings. Looking to the relations of the parties and the

manner in which the petitioner also acted at various places, the trial court observed that petitioner had full knowledge of the pendency of the present suit also and from the facts, the trial court reached to the conclusion that the petitioner has been settled as a defendant by the plaintiff himself to prolong the litigation.

In view of the above finding of facts, I do not find any reason to interfere in the order of the trial court dated 15.5.2004. Hence, the writ petition of the petitioner is dismissed.

(Prakash Tatia), J.

c.p.goyal/-